

Article - Natural Resources

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§4-1015.1.

(a) (1) Notwithstanding any other provision of this subtitle or regulation promulgated thereunder, a person who catches oysters from the waters of this State using any sort of diving apparatus shall cull the oysters on the natural bar from which they were caught, and return to the bar all shells, stones, gravel, and slag. Any oyster whose shell measures less than 3 inches in distance between its longest or widest points, whether or not attached to a marketable oyster, shall be included in the culling and replaced on the bar from which caught. Oyster culling shall be completed before any oyster is thrown or deposited in the hold or bottom of any boat.

(2) After culling and placing in the hold or bottom of a boat, a diver's possession of oysters may not include a combined total of more than 5 percent of oysters which measure less than 3 inches between its longest or widest points, and cultch consisting of shells, stones, gravel, and slag. In ascertaining this percentage the Department shall select by random sample an amount of oysters from any pile, hold, bin, house, or place as deemed proper and require it to be culled and disposed of, as provided by this section. All small oysters and cultch that adhere to marketable oysters shall be separated, and the marketable oysters shall be excluded from any measurement of small oysters and cultch. However, a person may possess marketable oysters that have undersized oysters or spat less than 1 inch in distance between their longest or widest points attached to them that cannot be separated without destroying the small oyster.

(b) (1) This subsection applies to persons aboard a boat who are using diving apparatus to catch oysters for commercial purposes from the waters of the State.

(2) Not more than two divers may work from a boat at any one time.

(3) Each diver shall have one attendant on the boat.

(4) For each combination of a diver and an attendant, either the diver or the attendant or both shall possess an authorization to catch oysters for commercial purposes.

(5) Subject to paragraph (6) of this subsection and notwithstanding any other provision of this subtitle:

(i) If both the diver and the attendant possess an oyster authorization, the combination may catch up to the equivalent of two times the daily catch limit as set forth in COMAR 08.02.04.06; or

(ii) If only one of the diver or attendant combination possesses an oyster authorization, the combination may catch up to the daily catch limit as set forth in COMAR 08.02.04.06.

(6) Persons on a boat may not catch more than the equivalent of two times the daily catch limit as set forth in COMAR 08.02.04.06.

(7) (i) Any person aboard a boat on which more than the equivalent of two times the daily catch limit as set forth in COMAR 08.02.04.06 have been caught in a day may be charged with a violation of this subsection.

(ii) Any person aboard a boat may be charged with a violation of this subsection for a boat on which:

1. One diver is working from the boat;
2. Only one of the diver and attendant combination possesses an oyster authorization; and
3. More than the daily catch limit as set forth in COMAR 08.02.04.06 has been caught in a day.

(c) The Department shall by rule and regulation set aside certain waters of this State to be used exclusively by hand tongers in catching oysters. Before adopting the regulations in their final form, the Department shall consult each of the local hand tonger committees.

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